

## UNITED STATES DEPARTMENT OF COMMERCE **Patent and Trademark Offic**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR			ATTORNEY DO	CKET NO.
09/073,643	05/06/98	MCKITTRICK		J	6339	M
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DORSEY & WHITNEY LLP			SHACKE	<u>IFORD,H</u>		
50 SOUTH SI	XTH STREET			ART UNIT	PAPER	NUMBER
MINNEAPOLIS		498		3671		20
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Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks** 

Office Action Summary    Saminer	•		Applicati n N .	Applicant(s)			
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALINKO DATE of this communication appears on th cover sh et with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALINKO DATE OF THIS COMMUNICATION.  THE MALINKO DATE OF THIS COMMUNICATION.  If the period for reply specified above in less than thirty (20) days, a reply within the stor activated by the correlatored timely.  If the period for reply specified above in less than thirty (20) days, a reply within the stor activated period the reply within the stor activated period the reply with the store activated period period to the period of the communication.  Falls to legate the store activated the s			09/073,643	MCKITTRICK, JA	NIE		
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THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be written with a provided or the communication of 3 CPR 1.136(b). In no event, however, may a reply be timely filed of site of SX (6) MONTHS from the mailing date of this communication.  - I'this period or enely specified belove in less than this (70 MONTHS from the mailing date of the communication or the provided or energy systems of the state of the communication or the provided or energy systems or expected by the Office and the than three months after the mailing date of this communication.  - Fallow is reply within the sat or extended period for reply will, by statute, cause the application to become ARANCONED (35 U.S.C. § 133).  - Any reply received by the Office less than there months ent the three hailing date of this communication, even if timely littled, may reduce any exempts quantities that the provided in the provided period of the provided period period of the provided period of the provided period of the provided period period of the provided period of the provided period per			ears on the cover sh	et with the correspondence a	ddress		
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Art Unit: 3671

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maguire.

Maguire discloses a hand held gardening implement having a frame which comprises the rake handle 18 and center portion 10a of the holder, a rake head (having working elements (tines) capable of piercing the ground at the proximal end of the frame, a brace 10c (figure 3) attached to the center portion 10a of the frame at the distal end, a handle 11 intermediate the working element and projecting away from the frame 18,10a in the opposite direction as the working element, and the brace 10c is formed of a circular metallic rod stock.

However, a cushion for contacting the forearm on the brace is not specifically disclosed.

Pfister discloses a cushion 20 to the degree as claimed on a brace portion of a hand tool. It would have been an obvious choice in design to provide a cushion as seen in Pfister to the brace Maguire to provide a comfortable rest for the forearm. To provide such a cushion to offer comfort and ease of operation, especially when the tool is being used for an extended period of time or handling a burdensome load would be considered obvious.

Re claim16, metal tine rakes with a substantially rectangular head (not the fanned-types used in raking leaves) can be used for digging. Hoes can also be used with the implement holder (col. 3, lines 24-32).

Applicant's arguments are deemed moot in view of the present rejection.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. Shackelford whose telephone number is 703-308-2978. The examiner can normally be reached on Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for formal communications and 703-746-3639 for informal communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1115.



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